

APPENDIX

IN THE UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Below,
Appellee,

vs. : No. 00-4415

DOE BOY, a/k/a,
CHRISTOPHER WILLIAMS CLEMONS,

Defendant-Below,
Appellant.

MOTION FOR ENLARGEMENT OF TIME NUNC PRO TUNC

COMES NOW, Appellant Christopher Clemons by and through his Court Appointed Attorney, John S. Malik, and hereby respectfully requests that this Honorable Court grant Appellant an enlargement of time nunc pro tunc to June 29, 2001 for the filing of Appellant's Opening Brief and Joint Appendix based upon the following grounds:

1. Appellant's Opening Brief and Joint Appendix was scheduled to be filed with this Court on June 4, 2001.
2. Appellant requests that an enlargement of time nunc pro tunc be granted for the filing of Appellant's Opening Brief and Joint Appendix to June 29, 2001 since additional time is needed by counsel to complete the preparation of the same.
3. Counsel submits that additional time is necessary to complete Appellant's Opening Brief and Joint Appendix since counsel has been involved in the following matters since counsel's last application for an enlargement of time for the filing of Appellant's Opening Brief and Joint Appendix:

a. During the month of April of 2001, counsel was been involved in intensive preparations for a Murder First Degree trial in the case of State of Delaware vs. Stephen Gilley in the Superior Court of the State of Delaware in and for New Castle County. Trial in the Gilley case was scheduled to commence on April 24, 2001; however, a plea agreement was entered on April 23, 2001, the day before trial was scheduled to commence.

b. During the remainder of the week of April 23, 2001, counsel was preparing for a clemency hearing before the Delaware Parole Board for Abdullah T. Hameen, a death row inmate scheduled to be executed on May 25, 2001. Mr. Hameen's hearing before the Board of Parole took place on April 30, 2001.

c. Thereafter, counsel began drafting a formal clemency petition for Mr. Hameen for a hearing before the Delaware Board of Pardons scheduled for May 18, 2001. Counsel completed the twenty-one page clemency petition on May 4, 2001.

d. On May 8, 2001, counsel commenced a jury trial in the Superior Court in the case of State of Delaware vs. John Lenoir involving charges of Assault Second Degree, Reckless Endangering Second Degree, Theft of Services, and Criminal Mischief. Trial in the Lenoir case concluded with a verdict on May 14, 2001.

e. On May 15, 2001, counsel commenced a jury trial in the Superior Court in the case of State of Delaware vs. Elijah Crawford involving charges of Burglary First Degree, Robbery First Degree, Possession of a Firearm During the Commission of a Felony, and Criminal Mischief. Trial in the Crawford case concluded with a mistrial on May 22, 2001.

f. On May 18, 2001, counsel appeared before the Delaware Board of Pardons for the clemency hearing regarding death row inmate Abdullah T. Hameen. This hearing lasted the entire day and was adjourned until the morning of Wednesday, May 23, 2001 when further proceedings took place that lasted until 2:00 P.M. Ultimately, Mr. Hameen's clemency petition was denied by the Pardon Board.

g. On the evening of May 23, 2001, counsel prepared a sixteen page Motion for Modification of Sentence for Mr. Hameen that sought to reduce his death sentences to

sentences of life imprisonment without possibility of parole or other release. This motion that was denied on May 24, 2001.

h. On May 24, 2001, counsel spent the majority of the day assisting Mr. Hameen with final matters in anticipation of his execution scheduled for 12:01 A.M. on May 25, 2001. Counsel also traveled to the Delaware Correctional Center on the evening of May 25, 2001 to advise Mr. Hameen of the denial of his sentence modification motion and to assist him in the execution of his last will and testament. Counsel remained at the Delaware Correctional Center as a stand-by defense witness for the execution of Mr. Hameen.

i. Counsel did not return to his office until May 29, 2001 and during that week appeared in the Superior Court of the State of Delaware for numerous case reviews, the entry of three guilty pleas, a Bail Hearing, a Violation of Probation Hearing, and a reimposition of a death sentence in the case of State of Delaware vs. Robert Jackson.

j. During the week of June 4, 2001, counsel appeared in the Superior Court of the State of Delaware for numerous case reviews, the entry of a guilty plea, and a two day jury trial in the case of State of Delaware vs. Kenneth Weaver involving a felony level Driving Under the Influence of Alcohol charge.

4. During the week of June 11, 2001, counsel was scheduled for vacation. Counsel has canceled his vacation and presently is preparing the Opening Brief and Joint Appendix in the above captioned appeal.

5. Counsel maintains that the granting of an enlargement of time for the filing of Appellant's Opening Brief and Joint Appendix would permit counsel time to prepare an Opening Brief on Appellant's behalf given counsel's congested trial calendar.

6. Lastly, counsel submits in good faith that for the foregoing reasons, the requested enlargement of time nunc pro tunc for the filing of Appellant's Opening Brief and Joint Appendix is necessary.

WHEREFORE, Appellant Christopher Clemons respectfully requests that this Honorable Court grant Appellant an enlargement of time nunc pro tunc to June 29, 2001 for the filing of Appellant's Opening Brief and Joint Appendix.



JOHN S. MALIK
100 East 14th Street
Wilmington, Delaware 19801
(302) 427-2247
Attorney for Appellant

Dated: June 13, 2001

**ABDULLAH TANZIL HAMEEN, a/k/a CORNELIUS FERGUSON v. STATE OF DELAWARE
CORNELIUS E. FERGUSON, JR., a/k/a Abdullah Tanzil Hameen, Appellant
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
212 F.3d 226; 2000 U.S. App. LEXIS 10920
No. 96-9007
May 17, 2000, Filed**

Editorial Information: Subsequent History

Certiorari Denied March 19, 2001, Reported at: 2001 U.S. LEXIS 2256.

Editorial Information: Prior History

On Appeal from the United States District Court for the District of Delaware. (D.C. Civ. No. 96-00306).
District Judge: Honorable Joseph J. Lonogobardi.

Disposition Affirmed.

Counsel John S. Malik (argued), Wilmington, DE. Joseph R. Slights, III, Kent A. Jordan (argued), Morris, James, Hitchens & Williams, Wilmington, DE, Attorneys for Appellant.
Loren C. Meyers (argued), Chief of Appeals Division, Timothy J. Donovan, Jr., William E. Molchen, Thomas E. Brown, Deputy Attorneys General, Department of Justice, Wilmington, DE, Attorneys for Appellee.

Judges: BEFORE: MANSMANN, GREENBERG, and MCKEE, Circuit Judges. BEFORE: GREENBERG, MCKEE, and RENDELL, Circuit Judges. McKEE, Circuit Judge, concurring.

Opinion

Opinion by: GREENBERG

{212 F.3d 229} OPINION OF THE COURT

GREENBERG, Circuit Judge.